

WPA 23754 of 2017

**Bhagyendu Das
Vs.
The State of West Bengal & Ors.**

**Mr. Biswarup Biswas
Mr. Lutful Haque
...for the petitioner**

**Ms. Chaitali Bhattacharyya
Mr. Mrinal Kanti Ghosh
...for the State**

The writ petition relates to regularisation of service of the petitioner as craft teacher in Sri Sri Ramkrishna Satyananda Drishtideep Sikshaniketan District-Bribhum (for short “the said institute”) being an institute for blind students under the Director of Mass Education Extension.

Mr. Biswarup Biswas, learned advocate appears on behalf of the petitioner and has submitted upon drawing attention to this Court to page 36 of the writ petition that the said institute forwarded the name of the petitioner to the concerned respondent authorities for his absorption as craft teacher taking into consideration the past service of the writ petitioner with effect from 1st October, 2001 which was not duly considered by the authorities while granting appointment in favour of other teaching staff of said institute upon recognition of the said institute by the authorities.

Due to failure on the part of the respondent authorities to approve the appointment of the petitioner as organising teaching staff, petitioner preferred writ petition being WPA 4071 of 2013, which was disposed of by a coordinate Bench vide order dated 4th October, 2016 thereby directing the Director of Mass Education Extension to reconsider the prayer of the petitioner for regularisation within a specified time. Pursuant to such direction of the coordinate Bench, the Director of Mass Education Extension decided the issue by passing order dated 9th February, 2017 which was communicated vide memo dated 14th February, 2017 whereby claim of the petitioner for regularisation against the post of craft teacher in the said institute was spurned. Such decision of the Director of Mass Education Extension being the respondent no. 3 is subject matter of challenge in the present writ petition.

It has been contended on behalf of the petitioner had the communication of the institute containing the list of names of the organising teaching staff been considered appropriately the claim of the petitioner for regularisation against approved post of craft teacher would have been decided in his favour. Accordingly, prayer has been made for quashing the order of the respondent no. 3 dated 9th February, 2017.

Ms. Chaitali Bhattacharyya, learned senior Government advocate appears on behalf of the State-

respondents and has defended the decision of the respondent no. 3 dated 9th February, 2017. It has been submitted on behalf of the respondents that on recognition of the said institute there was creation of one post of craft teacher and in the said post one Chandra Sekhar Pal was appointed and granted approval. Since there was no other post against which petitioner could have claimed consideration the claim of regularisation of the petitioner had to be rejected.

This Court has considered the submissions made by the respective parties and perused the relevant materials available on record. The petitioner, as it appears from page 36 of the writ petition, was appointed as an organising craft teacher with effect from 1st October, 2001 whereas said Chandra Sekhar Pal was appointed in the same post as an organising teacher with effect from 1st August, 1991. On recognition of the said institute though the authority of the said institute forwarded the names of the teaching staff including the petitioner and the said Chandra Sekhar Pal but the respondent authorities considering the seniority of Chandra Sekhar Pal accorded approval in favour of said Sri Pal on the post of craft teacher. It is also indisputable that on recognition of the said institute one post of craft teacher was created and against which the claim of said Sri Pal had to be considered considering his seniority over the petitioner.

Meanwhile, said Sri Pal has retired, but, it has been rightly found by the respondent no. 3 that the resultant vacancy ought to have been filled up following the relevant recruitment rules. The right of an organising teacher can only be established on creation of posts in the said institute upon its recognition and such right cannot survive once said post is filled up by a senior organising teacher.

In view of above consideration, this Court does not find any flaw in the order passed by the respondent no. 3 dated 9th February, 2017 and accordingly, the writ petition stands dismissed.

However, there shall be no order as to costs.

Urgent photostat certified copy of the order, if applied for, be given to the parties, upon usual undertakings.

(Saugata Bhattacharyya, J.)